

**Sai Malena Jimenez Fogarty**  
228 East Route 59, Nanuet, NY 10954  
sunnysky155@gmail.com  
347-993-4550

December 9, 2024

**The Honorable Judge Jennifer L. Rochon**  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 640  
New York, NY 10007

Re: Urgent Matters and Requests for Court Intervention in **Case No. 24-cv-08705-JLR**

**Dear Honorable Judge Rochon,**

I respectfully submit this letter to address several critical matters in my federal RICO civil case, which I have initiated as the plaintiff.

**1. Timely Submission of Response:**

I wish to bring to your attention that I emailed my response prior to the due date of November 28, 2024. Although I submitted my response on November 27, 2024, it was not uploaded until December 2, 2024, due to the necessity of routing through the Pro Se Filing group. To mitigate future delays, I have enrolled in a PACER class scheduled in two weeks, which will grant me the ability to upload documents directly. Presently, I am limited to only viewing documents.

This case holds significant importance to me, and I am committed to diligently adhering to all deadlines and submission requirements. I appreciate the extension provided, acknowledging the delay in the Pro Se uploading process. Moreover, I have not received any communication from opposing counsel, as required by the Court's local rules, despite the reference to this in your letter dated November 26, 2024.

**2. Request for One-Day Extension:**

Thank you for your decision to uphold justice by allowing the record to remain unsealed. In light of this, I respectfully request a one-day extension until Monday, December 16, 2024, to update the necessary information. Unfortunately, my laptop has contracted a virus and is currently not functioning properly, I'm going to take it to be repaired which will impair my ability to meet the original deadline of December 13, 2024. I sincerely appreciate your understanding and consideration of this request.

**3. Pro Bono Attorney Assignment:**

I respectfully request the Court's assistance in securing pro bono legal representation for my RICO case. I am currently unable to afford private counsel and the gravity of the charges, and the complexity of the case necessitate competent legal representation. Enclosed, please find the completed paperwork regarding the assignment of a pro bono attorney (**See Attached Exhibit 1**). Given the complexity of this case, securing legal representation is imperative under 18 U.S.C. § 1964(c) to ensure a fair and just resolution.



**RICO Case Complexity:**

RICO cases, as codified under **18 U.S.C. §§ 1961-1968**, are inherently intricate and involve extensive legal procedures. The complexity of the laws, statutes, and procedures in such cases cannot be reasonably navigated without the expertise of qualified legal counsel. The outcome of this case is of tremendous importance, and I am unable to adequately prosecute my case without proper representation.

**Inability to Afford Counsel:**

Due to my current financial circumstances, I cannot afford to retain an attorney. Without an attorney, I face overwhelming challenges in addressing the multiple legal issues in this case, including navigating discovery, court procedures, and understanding complex legal arguments related to racketeering.

I am a millionaire who has been wrongfully rendered destitute due to Defendant Thomas Fogarty's unlawful actions in blocking my access to all our marital assets without any court order, in direct violation of my legal rights and due process. As a result, I am facing significant financial distress: my rent is currently 11 days late, and last month I paid it 30 days late; my utilities were scheduled for suspension; I am forced to rely on a church pantry for food; and my car loan is six months behind and in the repossession process. Prior to these actions, I had never paid a bill late, and my credit score has plummeted from 836 to 400. Defendant Fogarty's conduct is not only a flagrant violation of my rights but also constitutes violations of federal law, including financial fraud and the unlawful withholding of assets. His actions have intentionally disrupted my financial stability, and I am now unable to meet even basic living expenses due to his ongoing obstruction. These actions represent a clear breach of my constitutional right to due process and equitable treatment and are the reasons I cannot pay for a lawyer in this case. I respectfully request immediate legal intervention to stop these violations and restore my access to my assets. **(See Attached Exhibit 2 – Email Seeking Assistance for the Church for Food and Christmas Presents).**

Two days after I informed him of my intent to divorce due to his domestic violence against me and our children—which he attributed to his substantial substance abuse—Defendant Fogarty emptied our joint accounts and transferred all funds into accounts solely in his name. **(See Attached Exhibit 3 – Unlawful TD Bank Transfer).** Additionally, Defendant Thomas Fogarty has misappropriated approximately \$1.6 million of our marital assets to fund his legal fees and extravagant lifestyle. Our multimillion-dollar estate includes Highbury Concrete, the largest non-union construction company in the tri-state area, which, according to a legal document provided by Defendant Fogarty, generates \$150 million in annual sales and \$500,000 in monthly profits. These profits have since tripled as we have expanded operations nationally, including high-profile projects such as the \$273 million One Flagler building in West Palm Beach. Defendant Fogarty's actions not only undermine my access to essential resources but also impede the fair and just division of our marital estate, further exacerbating the financial and legal misconduct in this case. **(See Attached Exhibit 4 – \$150 Million Dollars in Annual Sales).** I provided the principal funding and secured credit for the business, as Defendant Fogarty did not have a green card, social security number or money at the time. His actions constitute violations of fiduciary duty, fraudulent transfer, and federal laws, and continue to block my access to essential resources, hindering my ability to retain legal counsel for this case. I urgently request



intervention to protect my rights, stop his unlawful conduct, and allow me to access the funds necessary to pursue legal relief.

#### **Access to Assets for Legal Fees:**

Alternatively, I request that the Court authorize me to have access to my assets for the purpose of hiring private legal counsel. Currently, Defendant Thomas Fogarty has been blocking my access to these assets without any valid court order. This has prevented me from securing the necessary funds to hire my own attorney. Furthermore, Mr. Fogarty has been utilizing our shared assets to pay for his own legal fees and personal expenses, which is both unjust and detrimental to my ability to mount a proper prosecution.

#### **Disparity in Legal Resources:**

As the Court may be aware, Defendant Fogarty has retained a high-quality legal team to represent his interests. Given the complexity of the charges and the fundamental principle of fairness in legal proceedings, I should be entitled to similar access to competent legal representation. This would ensure that justice is upheld and that I do not continue to be unduly disadvantaged by not having the same resources at my disposal as the defendants.

#### **Pro Se Assistance Issues:**

While I acknowledge the availability of the Pro Se Help Center, I must inform the Court that the legal services provided is limited to paralegal assistance. I was advised by their staff that there is typically a two-week turnaround for support, and the information provided to me has been inaccurate. (**See Attached Exhibit 5 – Evidence of Inaccurate Legal Advice**). Specifically, I was advised by Elliott Gruenhut, Project Coordinator, SDNY Federal Pro Se Legal Assistance Project, not to oppose the motion to seal; however, this advice was not in the best interest of my case. Given the strong presumption in favor of public access to judicial documents, opposing the motion was crucial to ensure transparency and protect the integrity of the judicial process. The inaccurate guidance I received had the potential to cause significant harm to my case, undermine my ability to protect my rights, and hinder my pursuit of justice in this matter.

#### **Legal Precedents Supporting the Request:**

Several legal precedents support the appointment of pro bono counsel in complex cases where the litigants cannot afford representation:

- **Haines v. Kerner, 404 U.S. 519 (1972):** The U.S. Supreme Court held that pro se pleadings are to be held to less stringent standards than those drafted by lawyers.
- **Erickson v. Pardus, 551 U.S. 89 (2007):** The Court reaffirmed that a document filed pro se is to be liberally construed and must be held to less stringent standards than formal pleadings drafted by lawyers.
- **Estelle v. Gamble, 429 U.S. 97 (1976):** Reinforced the principle that courts should hold pro se pleadings to less stringent standards.
- **Mallard v. United States District Court for the Southern District of Iowa, 490 U.S. 296 (1989):** Discussed the discretionary power of federal courts to request attorneys to represent indigent civil litigants.



- **Bassett v. NCAA, 528 F.3d 426 (6th Cir. 2008):** Highlighted the difficulties pro se litigants face in complex litigation, emphasizing the need for competent legal representation in such cases.

#### **Fairness and Justice:**

Given these circumstances, I respectfully request that the Court consider granting my request for pro bono counsel, or, alternatively, provide me with access to my assets to retain the attorney of my choice. I trust that the Court will recognize the critical importance of ensuring a fair and just legal process for all parties involved and that I be afforded the opportunity to obtain competent legal representation. Such representation is essential to safeguard my rights and ensure that justice is properly served in this case.

#### **4. Retaliatory Actions by Defendants:**

I would also like to inform the Court of retaliatory actions taken by the defendants subsequent to being served with the subpoena for this case. Specifically, Thomas Fogarty has denied me access to our children during Thanksgiving, prevented visitation on three consecutive Fridays despite court-ordered visitation, and obstructed my daughter's attendance at her best friend's birthday party, which had been planned since November 6, 2024, etc. Additionally, Thomas Fogarty is subjecting our children to significant hardship by refusing to dress them appropriately in coats during freezing temperatures, confiscating all electronics, canceling playdates, and engaging in other punitive actions. These measures not only jeopardize their physical well-being but also inflict unnecessary emotional distress, effectively undermining their right to proper care, stability, and a nurturing environment. These retaliatory actions are in violation of Title VII of the Civil Rights Act of 1964, as they inflict considerable emotional distress on our children. (See **Attached – Retaliation Motion**).

#### **5. Conflict of Interest and Removal of Miller Zeiderman:**

I respectfully request the removal of Miller Zeiderman, as counsel for Thomas Fogarty in this case. Lisa Zeiderman and Ashley Kersting are currently representing him in the ongoing divorce proceedings, and their involvement in this federal case constitutes a significant conflict of interest, as outlined in Rule 1.7 of the American Bar Association's Model Rules of Professional Conduct. This situation also contravenes the witness-advocate rule, as outlined in Rule 3.7 of the American Bar Association's Model Rules of Professional Conduct. Specifically, the attorneys from Miller Zeiderman will be necessary witnesses in this case due to their involvement in the events central to the RICO claims, and therefore, they cannot ethically serve as advocates for Thomas Fogarty in this same case. This dual role presents a significant conflict of interest and would compromise the fairness and impartiality of the legal proceedings. (See **Attached – Motion to Disqualify Defendant Fogarty's Counsel due to the Witness Advocate Rule and Conflict of Interest**).

Additionally, as indicated in Thomas Fogarty's signed Statement of Net Worth from May 3, 2024, he has expended nearly \$1.6 million of our marital assets on his legal fees and personal expenses, while blocking my access to our assets. In **Reves v. Ernst & Young**, the court held that professionals must avoid conflicts of interest, further underscoring my request. These cases—**United States v. Rico, No. 23-2160 (10th Cir. 2024)**, **Franklin Medical Associates v. Newark Public Schools, In re Grand Jury Subpoena Duces Tecum Dated Jan. 2, 2004**,

**Mickens v. Taylor, 535 U.S. 162 (2002), and Holloway v. Arkansas, 435 U.S. 475 (1978)**—address attorney disqualification due to conflicts of interest in RICO cases. Given the serious nature of Defendant Fogarty's conduct, I respectfully request that any new attorney representing him be prohibited from being compensated from our marital assets, as their use would further exacerbate the harm caused by Defendant Fogarty's unlawful actions. In the interest of justice, I urge prompt intervention to stop these continuing violations and protect my rights.

Thank you for your attention to these urgent matters. Your consideration in facilitating a fair and just legal process is deeply appreciated. I remain unwavering in my commitment to complying with all court directives and deadlines, and I am resolutely dedicated to ensuring that justice is served in this critical case.

Respectfully,

*Sue Malena Jimenez Fogarty*

Encl.

cc: ECF via Pro Se Filing Email

Brett A. Scher

Kaufman Dolowich LLP

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Sai Malena Jimenez Fogarty

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(List the full name(s) of the plaintiff(s)/petitioner(s).)

1:24 CV 08705 (JLR) ( )

-against-

THOMAS FOGARTY, et al.,

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Application for the Court to  
Request Pro Bono Counsel

(List the full name(s) of the defendant(s)/respondent(s).)

I ask the Court to request a *pro bono* attorney to represent me in this action. In support of my application, I declare under penalty of perjury that the following information is true and correct:

1. Have you previously filed a "Request to Proceed in Forma Pauperis" (an IFP application)?

Please check the appropriate box below:

- ☐ I have previously filed an IFP application in this case, and it is a true and correct representation of my current financial status.
- ☒ I have not previously filed an IFP application in this case and now attach an original IFP application showing my financial status.
- ☐ I have previously filed an IFP application in this case, but my financial status has changed. I have attached a new IFP application showing my current financial status.

2. Explain why you need an attorney in this case. (Please note that requests for *pro bono* counsel are rarely granted at the early stages of a case and usually not before the Court has issued a decision on the merits of the case.) If you asked for an attorney earlier in this case, please also explain what has changed since you last asked for an attorney.

See attached.

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3. Explain what steps you have taken to find an attorney and with what results. (Please identify the lawyers, law firms or legal clinics you have contacted and their responses to your requests. If you have limited access to the telephone, mail, or other communication methods, or if you otherwise have had difficulty contacting attorneys, please explain.)

See attached.

4. If you need an attorney who speaks a language other than English, state what language(s) you speak: \_\_\_\_\_.
5. I understand that if an attorney volunteers to represent me and that attorney learns that I can afford to pay for an attorney, the attorney may give this information to the Court.
6. I understand that even if the Court grants this application, I will receive *pro bono* counsel only if an attorney volunteers to take my case and that there is no guarantee that an attorney will volunteer to represent me.
7. I understand that if my answers on this application or in my IFP application are false, my case may be dismissed.

12/4/2024

Date

Signature

Sai Malena Jimenez Fogarty

Name (Last, First, MI)

Prison Identification # (if incarcerated)

228 East Route 59

Nanuet

NY

10954

Address

City

State

Zip Code

347-993-4550

sunnysky155@gmail.com

Telephone Number

E-mail Address (if available)



**2. Explain why you need an attorney in this case. (Please note that requests for pro bono counsel are rarely granted at the early stages of a case and usually not before the Court has issued a decision on the merits of the case.) If you asked for an attorney earlier in this case, please also explain what has changed since you last asked for an attorney.**

I am seeking pro bono legal assistance for my federal RICO case involving judicial corruption, obstruction of justice, racial discrimination, and the unlawful manipulation of custody and assets by my estranged husband, Thomas Fogarty, his attorneys at Miller Zeiderman, and other defendants. **This case is a landmark case due to its unprecedented nature and the significant legal precedents it could establish. The outcomes of this case are likely to have far-reaching implications for similar future cases, highlighting its critical importance in shaping legal standards and protecting the rights of individuals affected by such unlawful actions.**

Although I possess substantial assets, I have been left financially destitute due to Thomas Fogarty's deliberate and unlawful financial misconduct, which has unjustly restricted my access to our multimillion-dollar estate without any legal basis or court order. In addition to obstructing my access, Thomas Fogarty has misappropriated \$1.6 million of our marital assets to cover his legal fees and personal expenses, which is a violation of the automatic divorce orders. This information is directly supported by his May 3, 2024, Statement of Net Worth, signed by Thomas Fogarty and his attorney Ashley Kersting.

These payments were made through four withdrawals from our marital asset, Highbury Concrete, between 2022 and 2023, to pay Miller Zeiderman's fees and Thomas Fogarty's and Defendant Laura Marino extravagant lifestyle expenses. During this period, Thomas Fogarty was also facing multiple class action lawsuits filed by Highbury Concrete employees, leading Federal Judge Peggy Kuo to order him to repay \$2 million in stolen wages in February 2024.

I am financially destitute and unjustly denied access to my assets, while being forced to navigate the legal system alone as a pro se litigant. At the same time, my funds are being siphoned off to cover the legal expenses of Thomas Fogarty's team, including 13 individuals, four of whom are attorneys from Miller Zeiderman. In addition, six of the seven defendants have unlawfully drained substantial sums from my assets without my consent or court approval, leaving me in a state of financial ruin. Despite possessing irrefutable evidence of judicial corruption, racketeering, and other unlawful actions by the defendants, it would be challenging to move my case forward or secure justice without fair representation. I urgently need an attorney to ensure that my rights are protected, that justice prevails, and that my case is properly advanced.

The seven defendants have inflicted significant harm on the lives of countless innocent children and families. In my case, I have compelling evidence that not only exposes their unlawful actions but also establishes their accountability. However, without legal representation, I risk having my case dismissed, allowing these defendants to perpetuate their illegal practices and continue profiting from the destruction of families, causing enduring harm to society.

**By appointing a pro bono attorney in my RICO case, I will finally have access to justice despite my inability to afford legal representation.** RICO cases are inherently complex and expensive to litigate, and without legal assistance, I would struggle to effectively navigate the legal system. *A pro bono attorney would provide the necessary legal expertise and support to help me build a strong case, present evidence, and argue my claims in court. This ensures that my rights are protected and that I have a fair opportunity to seek redress for the irreparable harm my children and I have suffered.*

**3. Explain what steps you have taken to find an attorney and with what results. (Please identify the lawyers, law firms or legal clinics you have contacted and their responses to**



**your requests. If you have limited access to the telephone, mail, or other communication methods, or if you otherwise have had difficulty contacting attorneys, please explain.)**

I have made significant efforts to secure legal representation for my case, including reaching out to various lawyers, law firms, and legal clinics. Despite my persistent attempts, I have faced considerable challenges in obtaining an attorney. Here is a summary of my efforts:

**1. Reaching Out to Law Firms:**

- **Law Firm 1:** I approached **Paul Reiss**, known for handling complex cases on a pro bono basis. I did not receive a response.
- **Law Firm 2:** I contacted **Orick**, pro bono counsel and they did not reply.

**2. Contacting Individual Lawyers:**

- **Lawyer 1:** I reached out to **Robert Lewis**, a prominent attorney specializing in family law and federal cases. After a brief consultation, Mr. Lewis declined to take my federal case due to lack of funds.
- **Lawyer 2:** I communicated with **Thomas Hale**, a law student that I was hoping could help but he has not graduated law school yet.

**3. Legal Clinics and Pro Bono Services:**

- **Legal Clinic 1:** I sought assistance from the **NYU Family Defense Clinic**. They provided initial advice but informed me that they were unable to take on my case since it's RICO.
- **Legal Clinic 2:** I connected with the **Bronx Defenders**. They do not handle RICO services.

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## Christmas Help Needed

1 message

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VI Jimenez <sunnysky1550@gmail.com>

Tue, Dec 3, 2024 at 3:17 PM

To: info@bethlehemchurch

My name is Malena Fogarty, I am a parishioner and I need help. Due to a malicious litigation with an individual I had been helping, I am now in a position where I am in desperate need of assistance. This person has unlawfully gained sole control of my assets, leaving me struggling. As a result, my utilities were suspended last month, and I am at risk of further disconnections due to non-payment. I am also behind on my rent and struggling to provide for my family.

With the holidays approaching, I am humbly asking if the church might be able to provide any assistance to help ease these burdens. Specifically, I would be incredibly grateful for gift cards to help with groceries, and if possible Christmas gifts for my children. My daughter is 9 years old, and my son is 11.

I am grateful for any help you can provide to my children and me during this Christmas season, and I truly appreciate your kindness and consideration. If you could kindly keep my children and I in your prayers that would be appreciated. May God continue to bless you and our church.

Sincerely,  
Malena Fogarty



## Christmas Help

1 message

VI Jimenez <sunnysky1550@gmail.com>

Tue, Dec 3, 2024 at 3:09 PM

For: [REDACTED]@[REDACTED].org [REDACTED]@[REDACTED].org>

Dear Father [REDACTED],

My name is Malena Fogarty, and I am a parishioner. I would like to express my interest in volunteering for the Good Samaritan Ministry to assist lonely seniors in our community. I am eager to contribute my time and efforts to help those in need, and I believe this ministry is a meaningful way to make a positive impact.

In addition, I am in need of help myself. Due to a malicious litigation with an individual I had been helping, I am now in a position where I am in desperate need of assistance. This person has unlawfully gained sole control of my assets, leaving me struggling. As a result, my utilities were suspended last month, and I am at risk of further disconnections due to non-payment. I am also behind on my rent and struggling to provide for my family.

With the holidays approaching, I am humbly asking if the church might be able to provide any assistance to help ease these burdens. Specifically, I would be incredibly grateful for gift cards to help with groceries, and if possible Christmas gifts for my children. My daughter is 9 years old, and my son is 11.

I am grateful for any help you can provide to my children and me during this Christmas season, and I truly appreciate your kindness and consideration. If you could kindly keep my children and I in your prayers that would be appreciated. May God continue to bless you and your ministry.

Sincerely,  
Malena Fogarty





Payment Receipt - Reference # 164693548-47

message

<customerservice@rentpayment.com>  
To: sunnysky155@gmail.com

Fri, Nov 29, 2024 at 4:22 PM



Payment Receipt

Payment Receipt

Thank you for using RentPayment! Your reference number is 164693548-47.

Renter Information

Payor Name: Malena Jimenez  
Unit: 317  
Payee Name: [REDACTED]  
Payee Address: 45 Broadway  
New York, NY 10006  
Phone: [REDACTED]  
Email: sunnysky155@gmail.com

Payment Method

Payment Account  
COMMERCE BK NA ... 5684

Payment Summary

Payment Amount \$3,945.00  
Total Payment: \$3,945.00  
Status: SUBMITTED\*  
Payment Date  
Nov 29, 2024, 04:22 PM

Next time, pay rent with our mobile app. Download from iOS or Android .

\* Please note, correctly submitted eCheck/ACH payments take three to five business days to process and successfully clear.

Go To My Account

This is a system generated email. Please do not reply.

DATE: 12/1/2024

ACCT NO.: NAN-001-317-2

[REDACTED]  
Nanuet, NY 10954You can now pay your rent online at [REDACTED]. Use  
account # HQ01076782.Malena Jimenez  
[REDACTED]

Nanuet, NY 10954

Please return the coupon below with your payment.

**RENT BILL**

DATE	CODE	DESCRIPTION	AMOUNT DUE
Balance Forward:			3,941.90
<b>Current Charges</b>			
12/01/24	AME	Amenities	58.00
12/01/24	EXT	Exterminating Fee	3.00
12/01/24	RNT	Base Rent	3,735.90
12/01/24	SWR	Sewer Charge	22.00
12/01/24	TRS	Trash	45.00

<b>BALANCE DUE</b>
7,805.80

KEEP THIS PORTION FOR YOUR RECORDS.  
PLEASE RETURN THIS PORTION WITH YOUR PAYMENT. THANK YOU.

Highlands Nanuet

Malena Jimenez  
[REDACTED]

Nanuet, NY 10954

Send payment to:

[REDACTED]  
Nanuet, NY 10954

Make Checks Payable To: [REDACTED]

DATE	PROPERTY	BLDG
12/1/2024	NAN	001
UNITID	LEASE	AMOUNT DUE
[REDACTED]	2	7,805.80
ACCOUNT NUMBER		
[REDACTED]		

<b>AMOUNT ENCLOSED</b>
\$

10954\*\*\*\*\*NAN000167922000000000P\*\*\*\*\*0000780580





Current Balance Due

**\$1,970.62**Pay  
Immediately

-42000-4

October 11, 2024

## Final Termination Notice

To avoid inconvenience, please bring this notice  
to our attention when paying this bill.

Your Gas and Electric service is scheduled to be shut off on or after October 30, 2024, because as of October 11, 2024, you have not kept your Payment Agreement with us. This Agreement is now cancelled and the total amount stated below is due in full. **However, you may renew your Agreement, BUT YOU MUST CONTACT US at 1-877-434-4100 and pay prior to October 30, 2024.** The breakdown of the total amount overdue stated below is as follows:

Gas and Electric Charges	\$1,967.97
Total Amount Overdue	\$1,967.97

If you can demonstrate that you broke your Agreement because of a significant change in your financial circumstances which is beyond your control, and you cannot renew your Agreement or accept the terms of the standard Agreement, please call us immediately at 1-877-434-4100 because we may be able to arrange another Agreement based upon your current financial condition.

**You may be able to obtain assistance from your local Department of Social Services. The office in Rockland county is located at 50 Sanatorium Road, Building L Pomona, NY 10970 and can be reached at 845-364-3100. Generally, before Social Services will provide assistance, you must file a financial statement with us showing assets, income and expenses to evaluate whether you are entitled to a new Payment Agreement.**

If payment is made by a check that is subsequently dishonored, we may shut off your service immediately without any further notice.

If service is terminated, you will be required to pay a reconnection charge plus applicable tax as follows:

CMOMRPATNTC

Wondering if you can get a better deal on your energy needs? Explore your choices at [oru.com](http://oru.com)

Page 1 of 3



PO BOX 1005  
SPRING VALLEY NY 10977



Scan to Pay

Account number: 22810-42000-4

Pay  
Immediately**\$1,970.62**Amount  
Enclosed

SAI JIMENEZ

NANUET NY 10954

Please make checks payable to Orange &amp; Rockland



PO BOX 1005  
SPRING VALLEY NY 10977

0009 22810420004 30000197062 30000197062



X79

2863



3

TD BANK

SAVINGS & CD CLOSEOUT

NAME THOMAS FOGARTY DATE 9/24/2024  
PLEASE PRINT  
ONE HUNDEN FOUR THOUSAND SEVENTY SIX  
WRITE AMOUNT IN FULL ON ABOVE LINE  
SIGNATURE(S) Thomas Fogarty

For Bank Use Only: ☐ with Penalty ☒ without Penalty  
☒ Closeout: Reviewed by: [Signature] Distribution: ☐ Cash ☐ Xfr'd to Acct # or Bank Check #

SYCDOL-64 (08/14)

ACCT. # [Redacted] 739 \$ 140076.92

544000150 105

Account: [Redacted] 5739  
Amount: 140,076.92  
PostDate: 20210924  
Tran\_ID: 754724446  
CheckNum: 0  
DIN: 754724451  
ReturnReasonCode:  
ReturnReasonDescription:  
Orig\_DIN: 754724451  
ECEItemSeqNum: 542808051189

542808051186 131817 20210924 000000004783045739  
CLO\_DEBIT ASANT12 140026.92  
Pearl River 0428 94004 5428 0007 0059  
542808051189 131918 MULTI-TRAN

Account: [Redacted] 5739  
Amount: 140,076.92  
PostDate: 20210924  
Tran\_ID: 754724446  
CheckNum: 0  
DIN: 754724451  
ReturnReasonCode:  
ReturnReasonDescription:  
Orig\_DIN: 754724451  
ECEItemSeqNum: 542808051189

4



NYSCEF DOC. NO. 545

RECEIVED NYSCEF: 12/05/2023

Audi Nyack

(845) 224-3660 (845) 358-8006

THIS AGREEMENT IS NOT BINDING UNLESS SIGNED BY THE SELLER AND THE BUYER

BUYER Thomas Fogarty		E-MAIL tommyfogarty@yahoo.com		SALESPERSON Anthony Metcall	
STREET [REDACTED]		CITY Blauvelt		RES. PHONE [REDACTED]	
COUNTY Rockland		STATE NY		ZIP 10911 CELL PHONE [REDACTED]-9355	
				BUS. PHONE [REDACTED]	
<b>THE TRANSACTION</b>					
I ORDER AND AGREE TO PURCHASE FROM YOU, ON THE TERMS CONTAINED ON BOTH SIDES OF THIS AGREEMENT, THE FOLLOWING VEHICLE: (READ OTHER SIDE)					
<b>THE VEHICLE</b>					
YEAR	2019	<input checked="" type="checkbox"/> NEW <input type="checkbox"/> USED <input type="checkbox"/> DEMONSTRATOR	MAKE Audi	MODEL Q8	SERIES
TYPE		COLOR	TRIM	V.I.N	
TERM		MILEAGE		PAYMENT	\$2,195.46
"NOTICE TO CONSUMER: IF THE VEHICLE IS NOT DELIVERED IN ACCORDANCE WITH THIS AGREEMENT WITHIN 30 DAYS AFTER THE ESTIMATED DELIVERY DATE AND THE DELAY IS NOT ATTRIBUTABLE TO YOU, YOU HAVE THE RIGHT TO CANCEL THIS AGREEMENT AND TO RECEIVE A FULL REFUND OF YOUR DEPOSIT."			USED VEHICLE DISCLOSURE STATEMENT - THE INFORMATION BUYER SEES ON THE F.T.C. WINDOW FORM FOR THIS VEHICLE IS PART OF THIS CONTRACT. INFORMATION ON THE WINDOW FORM OVERRIDES ANY CONTRARY PROVISIONS IN THE CONTRACT OF SALE.		
ESTIMATED DELIVERY DATE		DELIVERY LOCATION		STOCK NO. (IF RESERVED)	
PRIOR USE CERTIFICATION (required by Vehicle and Traffic Law 417-A if principal prior use of the vehicle were as a police vehicle, taxicab, driver education vehicle or rental vehicle). The principal prior use of this vehicle was as: a police vehicle, a taxicab, a driver education vehicle, or a rental vehicle					
<b>THE PRICE</b>					
VEHICLE PRICE		(+)	\$92,160.00	TAXES	\$7,724.68
TRANSPORTATION (IF NOT INCLUDED IN VEHICLE PRICE)		(+)		FEES	\$372.50
FACTORY INSTALLED EQUIPMENT		(+)		CASH DOWN	\$25,000.00
OPTION CODES					
T1 Credit required					
Rates Subjected to Change based on month of Pick up					
				TOTAL	\$75,257.18
<b>THE TRADE-IN</b>					
YEAR	MILEAGE	MAKE	MODEL	COLOR	LESS TRADE-IN CREDIT (-) (BUYER SEE 1 AND 6(b) ON BACK)
PLATE NO.	EXP. DATE	V.I.N.	PAY OFF		
TRADE-IN IS CLEAR OF ALL LIENS EXCEPT		AMOUNT OWED		CASH PRICE	\$75,257.18
<b>TAXES AND OTHER FEES</b>					
IF YOU AGREE TO ASSIST ME IN OBTAINING FINANCING FOR ANY PART OF THE PURCHASE PRICE, THIS ORDER SHALL NOT BE BINDING UPON YOU OR ME UNTIL ALL OF THE CREDIT TERMS ARE PRESENTED TO ME IN ACCORDANCE WITH REGULATION "Z" (TRUTH-IN-LENDING) AND ARE ACCEPTED BY ME. IF I DO NOT ACCEPT THE TERMS WHEN PRESENTED, I MAY CANCEL THIS ORDER AND MY DEPOSIT WILL BE REFUNDED.		SALES TAX		% (+)	\$7,724.68
		DEALER'S OPTIONAL FEE FOR PROCESSING APPLICATION FOR REGISTRATION AND FOR CERTIFICATE OF TITLE *		(+)	\$75.00
		REGISTRATION FEE (ESTIMATE)		(+)	\$297.50
		OTHER-ITEMIZE		(+)	
		TOTAL CASH PRICE DELIVERED			
SPECIAL NOTICE TO CONSUMER IF, UNDER THE LAW OF THE STATE OF NEW YORK CONTROLLING THE SALE OF USED MOTOR VEHICLES, YOU SHOULD BE ENTITLED TO A REFUND IN CONNECTION WITH THIS TRANSACTION, THE VALUE OF ANY VEHICLE YOU MAY HAVE TRADED-IN (IF THE SELLER CHOOSES NOT TO RETURN IT TO YOU) SHALL NOT BE THE VALUE LISTED IN THIS DOCUMENT. INSTEAD, THE VALUE WILL BE DETERMINED BASED ON THE NATIONAL AUTO DEALERS ASSOCIATION USED CAR GUIDE WHOLESALE VALUE OR OTHER GUIDE APPROVED BY THE COMMISSIONER OF MOTOR VEHICLES, AND ADJUSTED FOR MILEAGE, IMPROVEMENTS AND ANY MAJOR PHYSICAL OR MECHANICAL DEFECTS.		LESS CASH DEPOSIT SUBMITTED WITH ORDER		(-)	\$500.00
		PLUS BALANCE OWING ON TRADE-IN		(+)	
		CASH DUE ON DELIVERY			\$24,500.00
* The dealer application processing fee is not a New York State or Department of Motor Vehicles fee. Unless a lien is being recorded or the dealer issued number plates, you may avoid this fee by submitting your own application for registration under certificate of title to any motor vehicle issuing office. I have read the terms on the back of this agreement and have received a completed copy of this agreement.		BUYER'S SIGNATURE		DATE: 03/04/2019	
		CO-BUYER'S SIGNATURE		DATE: 03/04/2019	
		SELLER APPROVED BY [REDACTED]		DATE: 03/04/2019	
		CUSTOMER'S INITIALS:		DATE: 03/04/2019	



FILED: ROCKLAND COUNTY CLERK 12/05/2023 09:51 PM  
BUSINESS APPLICATION STATEMENT

INDEX NO: 035547/2021

NYSCEF DOC. NO. 545

84-302-6800 (07/13)

RECEIVED NYSCEF: 12/05/2023

Dealership Name <b>Audi Nyack</b>	Dealership Number <b>645 224 3360</b>	Contact Name
Applicant's E-Mail Address	Previous Account Number (if contracted with us)	Guarantor's Drivers License No.
Other Information		

## SECTION A: INFORMATION REGARDING BUSINESS

Company Name <b>Highbury Concrete Inc</b>	Federal Identification Number <b>46-2507279</b>	Phone Number <b>[REDACTED] - 6623</b>
Street Address (No P.O. Box) <b>[REDACTED]</b>	City/State/Zip <b>Maspeth NY 11378</b>	
Tax ID <b>[REDACTED]</b>	Type of Business <b>Concrete</b>	Year Established <b>2013</b>
Name of Affiliate Company or Subsidiary (if Applicable)	Address/City/State/Zip	Years Under Present Ownership <b>6</b>
Name of Driver of Vehicle <b>Thomas Fogarty</b>	Majority Stockholder (if Different from Officers)	
Garaging Location (Address/City/State/Zip) <b>[REDACTED] Blauvelt NY 10913</b>		

## SECTION B: INFORMATION REGARDING GUARANTOR PERSON RESPONSIBLE FOR ISSUING PAYMENT

Guarantor's Name (First, MI, Last) <b>Thomas Fogarty</b>	SSN <b>1 8 3 7 1 0 2 9 5</b>	Date of Birth <b>09 / 16 / 73</b>
Street Address (No P.O. Box) <b>[REDACTED]</b>	City/State/Zip <b>Blauvelt, NY 10913</b>	
Present Employer <b>Highbury Concrete Inc</b>	Occupation <b>Vice President</b>	Mo Employment Income <b>\$25k</b>
Street Address (No P.O. Box) <b>[REDACTED]</b>	<input type="checkbox"/> Rent/Lease <input checked="" type="checkbox"/> Owns Home <input type="checkbox"/> Other	Mortgage/Rent <b>3,500.00</b> Years <b>4yrs</b> Month <b>[REDACTED]</b>
<b>Maspeth, NY 11378</b>		Home Phone <b>[REDACTED] - 9355</b> <b>[REDACTED] - 4423</b>
<input type="checkbox"/> Self-Employed <input type="checkbox"/> Retired	Time Employed <b>5</b>	Months
Previous Employer (Only if Current Employment is less than 2 years)	Previous Occupation	Time Employed Years Months

## LIST THE NAME, PHONE NUMBER AND RELATIONSHIP OF 2 PERSONS NOT LIVING WITH YOU (ONE MUST BE A RELATIVE):

Name (1) <b>Feldman Lumber</b>	Phone <b>[REDACTED]</b>	Relationship <b>Vendor</b>
(2) <b>Men of Steel</b>	<b>[REDACTED]</b>	<b>Vendor</b>

## SECTION C: FINANCIAL REFERENCES

PREVIOUS CAR LEASED OR FINANCED WITH	ADDRESS, BRANCH, PHONE	OPEN	CLSD	TERM	PMTS	BALANCE (\$)
<b>[REDACTED]</b>		<input type="checkbox"/>	<input type="checkbox"/>			
		<input type="checkbox"/>	<input type="checkbox"/>			

Bank or Savings & Loan With <b>Connect One</b>	Type of Account <input checked="" type="checkbox"/> Savings <input checked="" type="checkbox"/> Checking
Vehicle Count In Current Fleet <b>6</b>	Leased <b>6</b> Owned

"We," "us" or "our" shall include VW Credit, Inc., Volkswagen Credit, Audi Financial Services, Ducati Financial Services, VW Credit Leasing, Ltd. and any and all of their respective parents, subsidiaries, affiliates, agents and independent contractors.

**CONSUMER REPORT:** You authorize and understand a consumer report may be requested in connection with this application or in connection with updates, renewals, extensions, or enforcements of any credit granted as a result of this application. If you ask, you will be told whether or not a consumer report(s) was/were obtained, and if such report(s) was/were obtained, told the name and address of which was voluntarily provided by you. You understand that we may retain this application whether or not it is approved. **CREDIT INVESTIGATION:** You authorize the selling dealer and VW Credit, Inc. to start a credit investigation based upon the above information. The information you provided is true and accurate to the best of your knowledge and that you are at least 18 years of age. **BANKRUPTCY:** A bankruptcy proceeding is not presently in progress nor expected. **TELEPHONE COMMUNICATIONS:** You agree that any telephone communications regarding this application or credit extended upon approval of this application may be carried out with prerecorded/artificial voice messages, monitored and/or recorded to assure quality service with us. You give us, or our third party debt collector, permission to make telephone calls and send text messages to you at any telephone number, including numbers assigned to a mobile, wireless or cellular service, you provide to us or at which we reasonably believe we can reach you, including calls and messages made using an autodialer or prerecorded message even if that may result in a charge to you. You agree that we can send disclosures electronically at the e-mail address you have given us and that it is your responsibility to update changes of name, address, telephone number or employment. **FAIR CREDIT REPORTING ACT DISCLOSURE:** This application credit sale may be considered by the dealer and VW Credit, Inc., as to whether it meets purchase requirements. **CALIFORNIA RESIDENTS:** A married applicant may apply for an individual account. **OHIO RESIDENTS:** The Ohio laws against discrimination require that all creditors make credit equally available to all credit worthy customers, and that credit reporting agencies maintain separate credit histories on each individual upon request. The Ohio Civil Rights Commission administers compliance with this law. **MAINE, NEW YORK, RHODE ISLAND & VERMONT RESIDENTS:** A consumer credit report may be requested in connection with this application or in connection with updates, renewals, extensions, or enforcements of any credit granted as a result of this application. Upon your request you will be informed whether or not a consumer credit report was requested, and if so, the name and address of the agency that furnished such report. You have the right to choose the agent and insurer for the insurance required by this transaction, but the insurer must be approved by the creditor. **MASSACHUSETTS RESIDENTS:** Massachusetts law prohibits discrimination on the basis of sex, marital status, age, or sexual orientation. **MARRIED WISCONSIN RESIDENTS:** No provision of a marital property agreement, a unilateral settlement agreement under Wis. Stat. § 766.59, or a court decree under Wis. Stat. § 766.70 adversely affects the interest of the creditor unless the creditor, prior to the time that the credit is granted, is furnished a copy of the agreement, statement or decree, or has actual knowledge of the adverse provision. If you are making this application individually and not jointly with your spouse, please provide the full name and current address of your spouse:

Name \_\_\_\_\_ Address \_\_\_\_\_  
VW Credit, Inc. (d.b.a. Volkswagen Credit, Audi Financial Services and Ducati Financial Services) is a servicer for VW Credit Leasing, Ltd. and VCI Loan Services, LLC.

## IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for you. When you open an account, you will be asked for your name, address, date of birth, and other information that will allow the lender to identify you. You may also be asked for your driver's license or other identifying documents.

Signature of Applicant <b>[Signature]</b>	Date <b>3/7/19</b>	Signature of Co-Applicant (PLACEMENT OF CO-APPLICANT'S SIGNATURE HERE MEANS YOU INTEND TO APPLY FOR JOINT CREDIT) <b>X</b>	Date
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## SECTION D: VEHICLE/FINANCIAL INFORMATION (DEALER ONLY)

NEW/USED VEHICLE			
<input type="checkbox"/> NEW	<input type="checkbox"/> USED	<input type="checkbox"/> DEMO	IF USED: <input type="checkbox"/> CERTIFIED PRE-OWNED <input type="checkbox"/> NON-CERTIFIED PRE-OWNED
			<input type="checkbox"/> VCI AUCTION <input type="checkbox"/> OFF-LEASE
Year	Make	Model	Mileage
			VIN
<input type="checkbox"/> BUSINESS	<input type="checkbox"/> CORPORATION	<input type="checkbox"/> OTHER	

TF00040



NYSCEF DOC. NO. 915

RECEIVED NYSCEF: 12/05/2023

Business Credit Application: Business Applicant

Trade Name of Business Highbury Concrete, Inc.		Business Type Corporation		State of Incorporation NY	
Legal Name of Business Highbury Concrete, Inc.				Type of Business	
Business E-Mail Address kgehnrich@highburyconcrete.com				Business Phone Number [REDACTED]-4423	
[REDACTED]		Date of Incorporation 04/2013		Years in Business 5	
Bankruptcy Indicator		Bankruptcy Date		Repossession Indicator	
Repossession Date					
Present Address Line 1 51 South Route 9W		Time at Present Address 0 years 2 months		Mortgage Type Owns	
Present Address Line 2		City West Haverstraw		State NY	
County West Haverstraw		ZIP 10993-1055			
Principal Last Name Gorman		First Thomas		Initial Suffix	
Years as Principal		Present Address Urbanization Code			
Principal Employer Address Line 1		Principal's Title		Principal's Relationship	
Telephone to Principal's Current Employer					
Principal Employer Address Line 2		City		State ZIP	
Percent of Ownership		Principal's Yearly Income		How Long as Owner / Operator	
Principal DCS		Principal Ph #			
2nd Principal Last Name		First		Initial	
2nd Principal's Title		2nd Percentage of Ownership			
2nd Principal DOB		2nd Principal Ph. #			
Operator Last Name		First		Initial	
Operator's Relationship					
Operator Present Address Line 1					
Operator Present Address Line 2		City		State ZIP	
Insurance Company		DUNS			
Alimony, child support, or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation.					
Bank Name		Bank Telephone Number		Bank Account Type Code	
Bank Address Line 1		Account Number		Account Balance	
Bank Address Line 2		City		State ZIP	
Name of Accountant		Accountant Telephone Number		Accountant Fax Number	
Accountant Address Line 1					
Accountant Address Line 2		City		State ZIP	
Current Assets		Intangible Assets		Fixed Assets	
Total Assets		Current Liabilities			
Long Term / Direct Liabilities		Total Liabilities		Capital	
Earned Surplus		Annual Sales \$150,000,000.00			
Gross Profit (Monthly Income) \$500,000.00		Net Profit		Working Capital	
Total Net Worth		Debt / Total Net Worth		Current Assets / Liabilities Ratio	
Creditor #1 Name / Address		Creditor #1 Balance		Creditor #1 Payment	
Creditor #2 Name / Address		Creditor #2 Balance		Creditor #2 Payment	
Company Financing Auto Loan		Previous Auto Loan Acct. Number		Previous Auto Loan Balance	
Previous Auto Loan Payment					

Source: DSP (Digital Retail)  
 US-CA01-EN (03/2017) v1 477768635-0

Customer Application Submission Time: 04/09/2021 11:04:42 AM EDT  
 Page 1

Printed: 04/12/2021 01:37:22 PM EDT

TF00042



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## Re: CBJC Pro Se Legal Assistance Project

1 message

**Elliott Gruenhut** <EGruenhut@nycbar.org>  
To: M Jimenez <sunnysky155@gmail.com>

Mon, Dec 9, 2024 at 9:50 AM

Hi Ms. Jimenez,

Looking at your docket, I don't see a deadline for you file an amended complaint. It looks like the next thing you need to respond to is the Defendant's motion to seal the docket. Because your complaint contains sensitive information (social security numbers, addresses, etc.), it seems reasonable to not oppose this motion to seal. Please let me know if you have any questions.

Best,  
Elliott

**Elliott Gruenhut** (he/him/his), Project Coordinator, SDNY Federal Pro Se Legal Assistance Project  
City Bar Justice Center | [42 W 44th Street, New York, NY 10036](#)  
P: 212.382.6600 | F: 212.382.6600 | E: [egruenhut@nycbar.org](mailto:egruenhut@nycbar.org)  
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*\*\*This communication (including any attachments) is intended solely for the recipient(s) named above and may contain information that is confidential, privileged, or legally protected. Any unauthorized use or dissemination of this communication is strictly prohibited. If you have received this communication in error, please immediately notify the sender by return e-mail message and destroy all copies of the original communication, including any attachment(s). Thank you for your cooperation.\*\**

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**From:** M Jimenez <[sunnysky155@gmail.com](mailto:sunnysky155@gmail.com)>  
**Sent:** Tuesday, December 3, 2024 3:30 PM  
**To:** Elliott Gruenhut <[EGruenhut@nycbar.org](mailto:EGruenhut@nycbar.org)>  
**Subject:** Re: CBJC Pro Se Legal Assistance Project

**[EXTERNAL MESSAGE]**